

1 FAGEN FRIEDMAN & FULFROST, LLP  
Milton E. Foster III, SBN 250357  
2 mfoster@f3law.com  
Nathaniel Rosilez, SBN 339229  
3 nrosilez@f3law.com  
4160 Temescal Canyon Road, Suite 610  
4 Corona, California 92883  
Phone: 951.215.4900  
5 Fax: 951.215.4911

6 Attorneys for RIVERSIDE UNIFIED  
SCHOOL DISTRICT, AMANDA  
7 CHANN, and LEANN IACUONE

8 **UNITED STATES DISTRICT COURT**

9 **CENTRAL DISTRICT OF CALIFORNIA, EASTERN DIVISION**

11 SAVE GIRLS' SPORTS, an  
unincorporated California association;  
12 T.S., a minor by and through her father  
and natural guardian, RYAN  
13 STARLING, individually, and on  
behalf of all others similarly situated;  
14 and K.S., a minor by and through her  
father and mother and natural  
15 guardians, DANIEL SLAVIN and  
CYNTHIA SLAVIN, individually, and  
16 on behalf of all others similarly  
situated;

17 Plaintiffs,

18 vs.  
19

20 TONY THURMOND, in his official  
capacity as State Superintendent of  
21 Public Instruction; ROB BONTA, in his  
official capacity as State Attorney  
22 General; RIVERSIDE UNIFIED  
SCHOOL DISTRICT; LEANN  
23 IACUONE, Principal of Martin Luther  
King High School, in her personal and  
24 official capacity; and AMANDA  
CHANN, Assistant Principal and  
25 Athletic Director of Martin Luther King  
High School, in her personal and  
26 official capacity,

27 Defendants.  
28

CASE NO. 5:24-cv-02480-SSS (SPx)

[Assigned for All Purposes to:  
Hon. Sunshine Suzanne Sykes,  
Courtroom 2]

**DEFENDANTS RIVERSIDE  
UNIFIED SCHOOL DISTRICT,  
LEANN IACUONE, AND AMANDA  
CHANN'S MOTION TO DISMISS  
AND STRIKE SECOND AMENDED  
COMPLAINT FOR FAILURE TO  
STATE A CLAIM**

[F.R.C.P. Rule 12(b)(1), Rule 12(b)(6)  
and Rule 12(f)]

*[Filed concurrently with Declaration of  
Nathaniel B. Rosilez in Support of Motion to  
Dismiss; and [Proposed] Order]*

DATE: January 9, 2026  
TIME: 2:00 p.m.  
DEPT.: Courtroom 2

Trial Date: None Set

**TO ALL PARTIES AND THEIR COUNSEL OF RECORD:**

PLEASE TAKE NOTICE THAT on [DATE], at [TIME], or as soon thereafter as counsel may be heard via Zoom in the courtroom of the Honorable Sunshine Suzanne Sykes, located in the United States Courthouse, 3470 Twelfth Street, Courtroom 2, Riverside, CA 92501, Defendants Riverside Unified School District (“District”), Dr. Leann Iacuone (“Iacuone”), and Amanda Chann (“Chann”) (the District, Iacuone, and Chann collectively hereinafter “Defendants”) will and hereby do move this Court to dismiss Plaintiffs T.S., K.S., and Save Girls’ Sports’ (collectively “Plaintiffs”) Fifth and Sixth Claims for Relief in Plaintiffs’ Second Amended Complaint (“SAC”). Defendants further move to strike the Seventh and Eighth Claims for Relief in Plaintiffs’ SAC.

Defendants Iacuone and Chann are named as defendants to each of Plaintiffs’ first three claims for relief. The District is named as a defendant to Plaintiffs’ Fourth, Fifth, and Sixth Claims for Relief. Defendants move for dismissal as follows:

1. As to the Fifth and Sixth Claims for Relief under 12(b)(1) as Plaintiffs have not alleged an injury in fact sufficient to confer constitutional standing for injunctive relief.

2. As to the Fifth and Sixth Claims for Relief under 12(b)(6) as Plaintiffs have not alleged facts sufficient to state a Claim for Relief.

Defendants further move to strike Plaintiffs’ allegations related to Plaintiffs’ amendment naming the California Department of Education as a defendant in this matter as well as those related to A.H. pursuant to Rule 12(f) on the grounds each are immaterial and impertinent as well as beyond the leave to amend granted by the Court.

This motion is made following the L.R. 7-3 conference of counsel which took place between November 5, 2025, and November 18, 2025 via email, and via teleconference on November 21, 2025. This Motion is based upon this Notice of

1 Motion and the attached Memorandum of Points and Authorities, filed concurrently  
2 herewith, all of the pleadings, files, and records in this proceeding, any matters to  
3 which the Court may properly judicially notice at the pleading stage, and any  
4 argument or evidence that may be presented to or considered by the Court prior to  
5 its ruling.

6  
7 DATED: November 26, 2025

FAGEN FRIEDMAN & FULFROST, LLP

8  
9  
10 By:



Milton E. Foster III

Nathaniel Rosilez

Attorneys for RIVERSIDE UNIFIED SCHOOL  
DISTRICT, AMANDA CHANN, and LEANN  
IACUONE

Fagen Friedman & Fulfrost, LLP

4160 Temescal Canyon Road, Suite 610

Corona, California 92883

Main 951.215.4900 • Fax 951.215.4911

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

## **TABLE OF CONTENTS**

### **Page**

MEMORANDUM OF POINT AND AUTHORITIES .....	4	4
I. INTRODUCTION AND SUMMARY OF ARGUMENT .....	4	4
II. SUMMARY OF RELEVANT FACTS .....	4	4
A. Dr. Leann Iacuone and Amanda Chann are Employed by the District at King High School.....	4	4
B. Plaintiffs T.S. and K.S. Compete on the King Girls’ Cross Country Team .....	5	5
C. M.L. Earns Her Way Onto the King Girls’ Varsity Cross Country Team for the Prestigious Mt. SAC Invitational .....	6	6
D. M.L. Also Competed on the King Track & Field Team as a Varsity Member .....	7	7
E. Plaintiffs’ Alleges Other Students Competing Pursuant to AB 1266.....	8	8
III. LEGAL ARGUMENT .....	8	8
A. Standard of Review .....	8	8
1. FRCP Rule 12(b)(1).....	8	8
2. FRCP Rule 12(b)(6).....	8	8
3. FRCP Rule 12(f).....	10	10
B. Plaintiffs’ Amendments are Beyond the Leave Granted by the Court.....	10	10
C. Plaintiffs Fail to Establish Standing to Seek Injunctive Relief as to the District’s Enforcement of AB 1266 .....	12	12
D. Plaintiffs Fail to State Their Claims Under Title IX.....	13	13
1. Plaintiffs Fail to State a Claim for Title IX: Effective Accommodation Violation .....	14	14
2. Plaintiffs Fail to State a Claim for Title IX: Equal Treatment Violation.....	16	16
IV. CONCLUSION .....	17	17

**Fagen Friedman & Fulfrost, LLP**  
 4160 Temescal Canyon Road, Suite 610  
 Corona, California 92883  
 Main 951.215.4900 • Fax 951.215.4911

## TABLE OF AUTHORITIES

		Page(s)
1		
2		
3	<b>Cases</b>	
4		
5	<i>Anders v. California State Univ., Fresno, No. 121CV00179AWIBAM,</i>	
6	2021 WL 3115867 (E.D. Cal. July 22, 2021).....	14
7	<i>Ashcroft v. Iqbal,</i>	
8	556 U.S. 662 (2009) .....	9
9	<i>Bell Atlantic Corp. v. Twombly,</i>	
10	550 U.S. 544 (2007) .....	9
11	<i>Brust v. Regents of Univ. of Cal.,</i>	
12	2007 WL 4365521 (E.D. Cal. Dec. 12, 2007).....	14
13	<i>Center for Bio-Ethical Reform v. Napolitano,</i>	
14	648 F.3d 365 (6th Cir. 2011) .....	10
15	<i>In re Century Aluminum Co. Sec. Litig.,</i>	
16	729 F.3d 1104 (9th Cir. 2013) .....	10
17	<i>Davidson v. Kimberly-Clark Corp.,</i>	
18	889 F.3d 956 (9th Cir. 2018) .....	12
19	<i>Fantasy, Inc. v. Fogerty,</i>	
20	984 F.2d 1524 (9th Cir.1993), rev'd on other grounds by <i>Fogerty v.</i>	
21	<i>Fantasy, Inc.</i> , 510 U.S. 517, 114 S.Ct. 1023, 127 L.Ed.2d 455	
22	(1994).....	10
23	<i>Fed'n of African Am. Contractors v. City of Oakland,</i>	
24	96 F.3d 1204 (9th Cir. 1996) .....	8
25	<i>Gerritsen v. Warner Bros. Entm't Inc.,</i>	
26	116 F. Supp. 3d 1104 (C.D. Cal. 2015).....	10
27	<i>Laird v. United Tchrs. Los Angeles,</i>	
28	615 F. Supp. 3d 1171 (C.D. Cal. 2022), <u>aff'd</u> , No. 22-55780, 2023	
	WL 6970171 (9th Cir. Oct. 23, 2023) .....	12
	<i>Levitt v. Yelp! Inc.,</i>	
	765 F.3d 1123 (9th Cir. 2014) .....	9

1	<i>Lujan v. Defenders of Wildlife,</i>	
2	504 U.S. 555 (1992) .....	8
3	<i>Mansourian v. Regents of Univ. of California,</i>	
4	602 F.3d 957 (9th Cir. 2010) .....	13
5	<i>Ollier v. Sweetwater Union High Sch. Dist.,</i>	
6	768 F.3d 843 (9th Cir. 2014) .....	14, 15, 16
7	<i>Sacks v. Office of Foreign Assets Control,</i>	
8	466 F.3d 764 (9th Cir. 2006) .....	9
9	<i>Safe Air for Everyone v. Meyer,</i>	
10	373 F.3d 1035 (9th Cir. 2004) .....	8
11	<i>Spokeo, Inc. v. Robins,</i>	
12	578 U.S. 330, 136 S. Ct. 1540, 194 L. Ed. 2d 635 (2016) .....	8, 12
13	<i>Whitaker v. Tesla Motors, Inc.,</i>	
14	985 F.3d 1173 (9th Cir. 2021) .....	10
15	<b>Federal Statutes</b>	
16	20 U.S.C. § 1681(a) .....	13
17	20 U.S.C. § 1681 et seq. ....	4
18	Title IX.....	4, 13, 14, 15, 16
19	<b>California Statutes</b>	
20	Cal. Educ. Code § 221.5(f) .....	16
21	<b>Federal Rule of Civil Procedures and Local Rules</b>	
22	34 C.F.R. § 106.41(c) .....	13
23	34 C.F.R. § 106.41(c)(1).....	13
24	34 C.F.R. § 106.41(c)(2)-(10).....	14
25	44 Fed.Reg. 71,418 .....	14
26	Fed. R. Civ. P. 15(a)(1).....	11
27	Fed. R. Civ. P. 15(a)(2).....	11
28		

**Fagen Friedman & Fulfrost, LLP**

4160 Temescal Canyon Road, Suite 610

Corona, California 92883

Main 951.215.4900 • Fax 951.215.4911

1	Federal Rules of Civil Rule 15 .....	11
2	FRCP Rule 12(b)(1).....	8
3	FRCP Rule 12(b)(6).....	4, 8
4	FRCP Rule 12(f) .....	10
5	L.R. 11-6.1 .....	18
6	Order Granting in Part and Denying in Part Riverside Unified School District's Motion to Dismiss and Granting the State of California's Motion to Dismiss, ECF 68 .....	11
7	Rule 12(b)(1).....	8
8	Rule 12(b)(6).....	9
9	Rule 12(f).....	10
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		
26		
27		
28		

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. INTRODUCTION AND SUMMARY OF ARGUMENT**

Plaintiffs T.S., K.S., and Save Girls' Sports' ("SGS") (T.S., K.S., and SGS collectively "Plaintiffs") First Amended Complaint ("FAC") should be dismissed under Federal Rule of Civil Procedure ("FRCP") Rule 12(b)(1) as to Plaintiffs' request for injunctive relief against the Riverside Unified School District ("District") as Plaintiffs have failed to plead any threat of repeated harm as a result of the District's continued compliance with AB 1266. Further, Plaintiffs' Fifth and Sixth Claims for Relief should be dismissed pursuant to FRCP Rule 12(b)(6) for failure to state a claim for which relief can be granted.

Plaintiffs' Fifth and Sixth Claims for Relief each arise under 20 U.S.C. section 1681 et seq ("Title IX"). Plaintiffs' Fifth and Sixth claims rely upon the theory that M.L. and other unnamed transgender athletes displace Plaintiffs T.S. and K.S. as well as other biological female athletes on the Martin Luther King High School ("King") girls' varsity cross country and track teams. Plaintiffs also point generally to another male athlete competing for another school district contributing to the forfeiture of over ten volleyball games. Plaintiffs allegations are insufficient to establish violated the effective accommodation or equal treatment requirements of Title IX.

Plaintiffs' Seventh and Eighth Claims for Relief are each subject to strike as each is excessive of the leave to amend granted by the Court. Further, Plaintiffs' allegations in support of the Seventh and Eighth Claims for Relief are subject to strike as immaterial and impertinent.

**II. SUMMARY OF RELEVANT FACTS**

**A. Dr. Leann Iacuone and Amanda Chann are Employed by the District at King High School**

The District is a school district located in Riverside County, California. SAC

¶ 25. The District is responsible for the adoption and implementation of District



1 policies and is further responsible for ensuring enforcement of District policies.

2 *Ibid.* Martin Luther King High School (“King”) is a high school maintained and  
3 operated by the District. FAC ¶ 80.

4 Dr. Iacuone is the Principal at King and is responsible for implementing and  
5 enforcing District policies on the King campus. SAC ¶ 26. Dr. Iacuone is provided  
6 with discretion in the implementation of District policies on an individualized basis.

7 *Ibid.* Ms. Chann serves as both the Assistant Principal and Athletic Director at King  
8 and is similarly given discretion to implement and enforce District policies. SAC ¶  
9 27. Ms. Chann would run with M.L. when M.L. was able to attend cross country  
10 team practices. SAC ¶ 128. Ms. Chann is alleged to have made the decision to  
11 place M.L. on the girls’ cross-country team. SAC ¶ 122.

12 **B. Plaintiffs T.S. and K.S. Compete on the King Girls’ Cross Country**  
13 **Team**

14 Plaintiff T.S. is alleged to be an eleventh-grade student at King and a member  
15 of the King girls’ cross-country team. SAC ¶¶ 19, 85. T.S. has received multiple  
16 accolades while competing as a member of the King girls’ cross-country team  
17 related to her time improvements. SAC ¶ 87. T.S. was first designated as a member  
18 of the King girls’ cross-country team in August 2024. SAC ¶ 88.

19 Plaintiff K.S. is alleged to be a ninth-grade student at King and similarly  
20 competes as a member of the King girls’ cross-country team. SAC ¶¶ 18, 81. Prior  
21 to entering high school, K.S. accumulated various accolades in cross country, track  
22 and field, volleyball, basketball, and soccer at the middle school level. SAC ¶¶ 82-  
23 84. K.S. consistently ranked second or third on the King girls’ cross country junior  
24 varsity team. SAC ¶ 81.

25 The 2024 cross country season was K.S.’s first at King, and T.S.’s third  
26 season. SAC ¶¶ 81, 85. T.S. and K.S. allege each attended every practice during  
27 the 2024 cross country season. SAC ¶¶ 90-92. Plaintiffs allege T.S. has served in a  
28 leadership role as a girls’ cross country team captain since August 2024 and is

1 responsible for demonstrating a strong work ethic, upholding a high standard of  
2 responsibility, and fostering a positive attitude to inspire and motivate the team.  
3 SAC ¶ 88.

4 C. **M.L. Earns Her Way Onto the King Girls' Varsity Cross Country**  
5 **Team for the Prestigious Mt. SAC Invitational**

6 King provides athletic programs and opportunities separated by sex and  
7 maintains 4 separate cross-country teams: a boys' varsity team, a girls' varsity team,  
8 a boys' junior varsity team, and a girls' junior varsity team. SAC ¶¶ 94-95. The  
9 girls' varsity team lineup is typically left to the coaching staff's discretion based on  
10 the following criteria: (1) previous race times, (2) practice attendance, (3) "varsity-  
11 level effort' at practice during the week (or specifically a lack of it), (4) attitude, (5)  
12 long-term team strategy by the coaching staff, (6) illness/injury, (7) varsity  
13 "exposure," and (8) other unforeseen issues. SAC ¶ 99. It is also left to the coach's  
14 discretion to determine whether consequences shall be employed as a result of  
15 multiple missed workouts. SAC ¶ 102. Any one of the above factors could warrant  
16 selection for the varsity lineup. *See* SAC Ex. 1, at p. 7.

17 Because King's cross-country teams rank in the top 10 of the California  
18 Interscholastic Federation Southern Section, Division 1, the girls' team is regularly  
19 invited to the annual Mt. SAC Cross Country Invitational ("Mt. SAC Invite"). SAC  
20 ¶ 107. The Mt. SAC Invite is a premier cross-country event and was held on  
21 October 25, 2024, and October 26, 2024. SAC ¶ 107.

22 M.L. transferred to King in June 2024 after being ranked as the top performer  
23 on her prior school's girls' cross-country team. FAC ¶¶ 119-120. Between August  
24 2024 and October 2024, Plaintiffs allege that M.L. attended only 13 of the 74  
25 scheduled cross-country practices. SAC ¶ 126. M.L. is alleged to have attended the  
26 last 50-60 minutes of the approximately two and a half hour practices. SAC ¶ 127.

27 On October 19, 2024, M.L. competed as a member of the King girls' cross-  
28 country team for the first time in the 2024 cross country season. SAC ¶ 115. M.L.

1 posted a time of 19:41 on that race day. *Ibid.* T.S. also competed on that race day  
2 and posted a time of 20:42. SAC ¶ 116. M.L. placed sixth out of the competing  
3 female athletes, qualifying her to receive a top 30 medal. SAC ¶ 149.

4 Days later, on or about October 22, 2024, the girls' varsity lineup for the Mt.  
5 SAC Invite was released. SAC ¶ 117. T.S. was not included on the varsity lineup  
6 and was instead listed under the junior varsity lineup. SAC ¶ 118. M.L. was instead  
7 listed as a member of the varsity lineup. *Ibid.* M.L. ultimately competed at the Mt.  
8 SAC Invite as a member of the varsity team. SAC ¶ 135.

9 M.L. again competed at the Big VII League Finals ("League") on or about  
10 November 8, 2024. SAC ¶ 150. The top 21 female athletes at League were  
11 awarded medals. *Ibid.* At League, M.L. finished in fourth place, qualifying her to  
12 receive a medal. SAC ¶ 150. On or about December 17, 2024, M.L. received the  
13 "MLKHS Senior Girl" award. SAC ¶ 151.

14 **D. M.L. Also Competed on the King Track & Field Team as a Varsity**  
15 **Member**

16 In addition to competing as a member of the King girls' cross-country team,  
17 M.L. was also permitted to compete on the King girls' track and field team. SAC ¶  
18 152. M.L. is alleged to have participated in approximately twenty-seven (27)  
19 different track and field events as a member of the King girls' track team during the  
20 2024-2025 track & field season. SAC ¶ 161. M.L. would also be permitted to use  
21 the same bathrooms and lockers as Save Girls' Sports members, including T.S. and  
22 K.S., and allegedly due to the District's enforcement of AB 1266. SAC ¶¶ 169-171.

23 On February 8, 2025, M.L. competed in the girls' 200-meter race as well as  
24 the varsity 300-meter hurdles. SAC ¶¶ 154, 156. M.L. finished in seventh and first  
25 in each respective event, ahead of Save Girls' Sports members. SAC ¶¶ 155, 157.  
26 On February 26, 2025, M.L. competed in the women's varsity 300m hurdles, again  
27 finishing ahead of another Save Girls' Sports member. SAC ¶ 158. On April 9,  
28 2025, M.L. competing in the women's varsity 100m hurdles, finishing ahead of a

1 Save Girls' Sports member. SAC ¶ 159. On April 29, 2025, M.L. again competing  
2 in the women's varsity 300m hurdles, and again finished ahead of a Save Girls'  
3 Sports member. SAC ¶ 160.

4 **E. Plaintiffs' Alleges Other Students Competing Pursuant to AB 1266**

5 In addition to M.L., Plaintiffs' identify another transgender student athlete in  
6 their SAC. Plaintiffs specifically identify A.H., an alleged biological male who  
7 competed on Jurupa Unified School District's girls' track and field team during the  
8 2024-2025 season and won the California state titles in the girls' high jump and long  
9 jump. SAC ¶ 163. A.H. is alleged to have participated in approximately forty-two  
10 (42) track and field events, and displaced female athletes including Save Girls'  
11 Sports members. SAC ¶¶ 163-166. Additionally, A.H. competed as a member of  
12 the JVHS girls' volleyball team and resulted in at least ten (10) schools forfeiting  
13 matches against JVHS. SAC ¶ 168.

14 **III. LEGAL ARGUMENT**

15 **A. Standard of Review**

16 **1. FRCP Rule 12(b)(1)**

17 Defendants bring this Motion to Dismiss under Rule 12(b)(1) for lack of  
18 Article III standing. To satisfy Article III's standing requirements, plaintiffs "must  
19 have (1) suffered an injury in fact, (2) that is fairly traceable to the challenged  
20 conduct of the defendant, and (3) that is likely to be redressed by a favorable judicial  
21 decision. *Spokeo, Inc. v. Robins*, 578 U.S. 330, 338, 136 S. Ct. 1540, 1547, 194 L.  
22 Ed. 2d 635 (2016), as revised (May 24, 2016) (applying the standing test from *Lujan*  
23 *v. Defenders of Wildlife*, 504 U.S. 555, 560-61 (1992)).

24 A Rule 12(b)(1) motion can be either "facial" or "factual." *Safe Air for*  
25 *Everyone v. Meyer*, 373 F.3d 1035, 1039 (9th Cir. 2004). For a facial attack such as  
26 this instant Motion, all allegations are accepted as true. *Fed'n of African Am.*  
27 *Contractors v. City of Oakland*, 96 F.3d 1204, 1207 (9th Cir. 1996).

28 **2. FRCP Rule 12(b)(6)**

Defendants bring this Motion to Dismiss under Rule 12(b)(6) for "failure to state a claim upon which relief can be granted." Fed.R.Civ.Proc. 12(b)(6). To survive a motion to dismiss under this rule, a plaintiff must show that he or she has alleged sufficient facts which, if true, would confer upon him or her the relief sought. *Sacks v. Office of Foreign Assets Control*, 466 F.3d 764, 771 (9<sup>th</sup> Cir. 2006). A complaint must provide "factual allegations" that "raise a right to relief above the speculative level" to the "plausible" level. *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 545 (2007).

For a claim to be "plausible," it is insufficient that the facts alleged are "consistent with" a defendants' liability" or that a violation is "conceivable." *Ashcroft v. Iqbal*, 556 U.S. 662, 680 (2009) (quoting *Twombly*, 550 U.S. at 567). "[W]here the well-pleaded facts do not permit the court to infer more than the mere possibility of misconduct, the complaint has alleged-but it has not 'show[n]'-that the pleader is entitled to relief.'" *Id.* at 679 (quoting Fed. R. Civ. P. 8(a)(2)).

Interpreting *Iqbal* and *Twombly*, the Ninth Circuit employs a two-step approach:

First, to be entitled to the presumption of truth, allegations in a complaint or counterclaim may not simply recite the elements of a cause of action but must contain sufficient allegations of underlying facts to give fair notice and to enable the opposing party to defend itself effectively. Second, the factual allegations that are taken as true must plausibly suggest an entitlement to relief, such that it is not unfair to require the opposing party to be subjected to the expense of discovery and continued litigation.

*Levitt v. Yelp! Inc.*, 765 F.3d 1123, 1135 (9<sup>th</sup> Cir. 2014) (quoting *Eclectic Props. E., LLC v. Marcus & Millichap Co.*, 751 F.3d 990, 996 (9<sup>th</sup> Cir. 2014)). Additionally, "[w]hen faced with two possible explanations, only one of which can be true and only one of which results in liability, plaintiffs cannot offer allegations that are merely consistent with their favored explanation but are also consistent with the alternative explanation. Something more is needed, such as facts tending to exclude

1 the possibility that the alternative explanation is true, in order to render plaintiffs'  
2 allegations plausible.” *In re Century Aluminum Co. Sec. Litig.*, 729 F.3d 1104, 1108  
3 (9th Cir. 2013) (internal citations omitted).

4 “Taken together, *Iqbal* and *Twombly* require well-pleaded facts, not legal  
5 conclusions.” *Whitaker v. Tesla Motors, Inc.*, 985 F.3d 1173, 1176 (9th Cir. 2021)  
6 (citations omitted). And, civil rights litigants are not entitled to a more lenient  
7 pleading standard. *Id.* at 1177. Additionally, “the Supreme Court has been clear  
8 that discovery cannot cure a facially insufficient pleading.” *Id.* at 1177.

9 Accordingly, a complaint that does not provide the “when, where, in what or by  
10 whom” to support conclusory allegations fails to state a claim. *Center for Bio-*  
11 *Ethical Reform v. Napolitano*, 648 F.3d 365, 373 (6th Cir. 2011).

### 12 3. FRCP Rule 12(f)

13 Pursuant to Rule 12(f), “[t]he court may strike from a pleading an insufficient  
14 defense or any redundant, immaterial, impertinent, or scandalous matter.” “The  
15 function of a 12(f) motion to strike is to avoid the expenditure of time and money  
16 that must arise from litigating spurious issues by dispensing with those issues prior  
17 to trial....” *Fantasy, Inc. v. Fogerty*, 984 F.2d 1524, 1527 (9th Cir.1993) (quotation  
18 marks, citation, and first alteration omitted), rev'd on other grounds by *Fogerty v.*  
19 *Fantasy, Inc.*, 510 U.S. 517, 114 S.Ct. 1023, 127 L.Ed.2d 455 (1994). A motion to  
20 strike pursuant to Rule 12(f) is proper to address new claims, parties or factual  
21 allegations of an amended complaint that are beyond the permissible scope of a  
22 court's prior order granting leave to amend. *See, e.g., Gerritsen v. Warner Bros.*  
23 *Entm't Inc.*, 116 F. Supp. 3d 1104, 1125 (C.D. Cal. 2015) (striking new claims “that  
24 exceed[ed] the **leave to amend** granted” and collecting cases granting  
25 similar Rule 12(f) motions)

### 26 B. Plaintiffs’ Amendments are Beyond the Leave Granted by the 27 Court

28 As an initial matter, School Defendants note that Plaintiffs’ SAC goes beyond



1 the leave to amend granted by the Court. Pursuant to Rule 15 of the Federal Rules  
2 of Civil Procedures, a party may only amend its pleading once as a matter of course.  
3 Fed. R. Civ. P. 15(a)(1). Further amendments require the written consent of  
4 opposing party or the court's leave. Fed. R. Civ. P. 15(a)(2).

5 In its Order Granting in Part and Denying in Part Defendant Riverside  
6 Unified School District's Motion to Dismiss and Granting the State of California's  
7 Motion to Dismiss (the "Order"), Plaintiff was solely granted leave to amend per the  
8 Court's Order. In its Order, the Court ruled that State Superintendent of Public  
9 Instruction Tony Thurmond and Attorney General Rob Bonta could be properly  
10 sued in their official capacities. The Court further stated, "Any amended complaint  
11 **SHALL ONLY** address the deficiencies identified herein." Order Granting in Part  
12 and Denying in Part Riverside Unified School District's Motion to Dismiss and  
13 Granting the State of California's Motion to Dismiss, ECF 68, T.S. et al. v.  
14 Riverside Unified School District et al. (Emphasis in original). Plaintiff has not  
15 been granted leave by the Court to amend the complaint to substitute the California  
16 Department of Education.

17 Similarly, Plaintiffs' allegations related to A.H. are immaterial and  
18 impertinent to this controversy at hand and go beyond the leave to amend granted by  
19 the Court. A.H. is not alleged to have competed with either T.S. or K.S.. Further,  
20 A.H. is a student outside of the District, attending another California school district.  
21 It is unclear from the SAC how Plaintiffs' amendments related to A.H. relate to the  
22 case and controversy at hand in this matter, specifically the provision of athletic  
23 opportunities to female athletes at Martin Luther King High School as well as the  
24 temporary restriction on the wearing of the Save Girls' Sports shirts.

25 Plaintiffs' Seventh and Eighth Claims for Relief are therefore improperly  
26 asserted here and must be stricken from Plaintiffs' SAC. Additionally, it is proper  
27 to strike those allegations related to A.H. as well as the California Department of  
28 Education in the following paragraphs of Plaintiffs' SAC: 23-24, 77-78, 152, 162-

1 168, 360, 361 as to A.H., 378 as to A.H., 393 as to A.H., and 400-434.

2 C. **Plaintiffs Fail to Establish Standing to Seek Injunctive Relief as to**  
3 **the District’s Enforcement of AB 1266**

4 To establish standing, a plaintiff must show he “(1) suffered an injury in fact,  
5 (2) that is fairly traceable to the challenged conduct of the defendant, and (3) that is  
6 likely to be redressed by a favorable judicial decision.” *Laird v. United Tchrs. Los*  
7 *Angeles*, 615 F. Supp. 3d 1171, 1178 (C.D. Cal. 2022), aff’d, No. 22-55780, 2023  
8 WL 6970171 (9th Cir. Oct. 23, 2023) (*quoting Spokeo, Inc. v. Robins*, 578 U.S. 330,  
9 338 (2016)).

10 “For injunctive relief, which is a prospective remedy, the threat of injury must  
11 be actual and imminent, not conjectural or hypothetical.” *Davidson v. Kimberly-*  
12 *Clark Corp.*, 889 F.3d 956, 967 (9th Cir. 2018) (quotations omitted). “A plaintiff  
13 seeking injunctive relief based on a past injury must show that he is realistically  
14 threatened by a repetition of the prior injury to establish standing, regardless of  
15 whether the injunction contemplates intrusive structural relief or the cessation of a  
16 discrete practice.” *Laird v. United Tchrs. Los Angeles*, 615 F. Supp. 3d at 1178  
17 (citing *City of Los Angeles v. Lyons*, 461 U.S. 95, 102, 109 (1983)). Plaintiffs must  
18 show a sufficient likelihood of being harmed again in a similar manner to establish  
19 standing to seek injunctive relief. *Davidson v. Kimberly-Clark Corp.*, 889 F.3d 956,  
20 971 (9th Cir. 2018) (*quoting Lyons*, 461 U.S. at 111).

21 Plaintiffs here have failed to plead a threat of a repetition of the injury caused  
22 by the District’s enforcement of AB 1266. The only District transgender athlete  
23 alleged to be competing against Plaintiffs T.S. and K.S. as well as other Save Girls’  
24 Sports members is M.L. As this Court noted, Plaintiffs’ FAC described “M.L. as a  
25 ‘senior’ who is attempting to graduate early.” [CITE]. Plaintiffs identify no other  
26 transgender athletes competing within the District in their SAC. Instead, as  
27 discussed further below, Plaintiffs rely on competitors outside of the District to  
28 attempt to plead ongoing harm. Thus, Plaintiffs have not established that there is



1 any likelihood of repeated injury as a result of the District's own enforcement of AB  
2 1266.

3 Notwithstanding the above, the District anticipates that Plaintiffs will cite to  
4 allegations related to A.H. in opposition. However, Plaintiffs' allegations related to  
5 A.H. are inapposite as to the District's enforcement of AB 1266. As Plaintiffs  
6 allege, A.H. competes pursuant to the enforcement of AB 1266 by another  
7 California school district. See SAC ¶¶ 163, 167. A.H. is not alleged to be a District  
8 student nor has A.H.'s participation in track and field or volleyball been alleged to  
9 be subject to any District control. Another assumedly transgender student  
10 competing in another school district is insufficient to establish the likelihood of  
11 Plaintiffs' harm being repeated as a result of the District's enforcement of AB 1266.

12 As plead, Plaintiffs have failed to allege any nonspeculative injury sufficient  
13 to establish that Plaintiffs will suffer repeated injury due to the District's  
14 enforcement of AB 1266, Plaintiffs' petition for injunctive relief as applied to the  
15 District must be dismissed.

16 **D. Plaintiffs Fail to State Their Claims Under Title IX**

17 Section 901(a) of Title IX of the Education Amendments of 1972 provides  
18 that, subject to certain exceptions, "[n]o person in the United States shall, on the  
19 basis of sex, be excluded from participation in, be denied the benefits of, or be  
20 subjected to discrimination under any education program or activity receiving  
21 Federal financial assistance." 20 U.S.C. § 1681(a). Title IX's implementing  
22 regulations require that schools provide "equal athletic opportunity for members of  
23 both sexes." 34 C.F.R. § 106.41(c).

24 Title IX's implementing regulations "establish two components of Title IX's  
25 equal athletic opportunity requirement: 'effective accommodation' and 'equal  
26 treatment.' " *Mansourian v. Regents of Univ. of California*, 602 F.3d 957, 964 (9th  
27 Cir. 2010). Effective accommodation requirements derive from 34 C.F.R. §  
28 106.41(c)(1) and equal treatment requirements derive from 34 C.F.R. §

1 106.41(c)(2)-(10). *Id.* “Effective accommodation claims thus concern the  
2 opportunity to participate in athletics, while equal treatment claims allege sex-based  
3 differences in the schedules, equipment, coaching, and other factors affecting  
4 participants in athletics.” *Id.*

5 **1. Plaintiffs Fail to State a Claim for Title IX: Effective**  
6 **Accommodation Violation**

7 In deciding whether a plaintiff can state an “ineffective accommodation”  
8 claim, courts look to the three-part compliance test set forth in 44 Fed.Reg. 71,418.  
9 *Brust v. Regents of Univ. of Cal.*, 2007 WL 4365521, at \*3 (E.D. Cal. Dec. 12,  
10 2007). To determine whether an institution is complying with the “effective  
11 accommodation” requirement, the court must consider the following:

12 (1) Whether ... participation opportunities for male and female students  
13 are provided in numbers substantially proportionate to their respective  
enrollments; or

14 (2) Where the members of one sex have been and are underrepresented  
15 among ... athletes, whether the institution can show a history and  
16 continuing practice of program expansion which is demonstrably  
responsive to the developing interest and abilities of the members of that  
sex; or

17 (3) Where the members of one sex are underrepresented among ...  
18 athletes, and the institution cannot show a continuing practice of program  
19 expansion such as that cited above, whether it can be demonstrated that  
the interests and abilities of the members of that sex have been fully and  
effectively accommodated by the present program.

20 *Ollier v. Sweetwater Union High Sch. Dist.*, 768 F.3d 843, 854 (9th Cir. 2014)  
21 (citing 44 Fed.Reg. 71,413, 71,418 (Dec. 11, 1979)). Title IX plaintiffs bear the  
22 burden of proving a defendant's failure to satisfy Prong One's substantial  
23 proportionality requirement by showing an actionable “disparity” in participation  
24 opportunities by sex. *Anders v. California State Univ., Fresno, No.*

25 *121CV00179AWIBAM*, 2021 WL 3115867, at \*5 (E.D. Cal. July 22, 2021) (citing  
26 *Horner v. Kentucky High Sch. Athletic Ass'n*, 43 F.3d 265, 275 (6th Cir. 1994)).

27 Under the first prong, the court first determines the number of participation  
28 opportunities afforded to male and female athletes before considering whether the

1 number of participation opportunities “is substantially proportionate to each sex’s  
2 enrollment.” *Ollier*, 768 F.3d at 855. Substantially proportionate participation is  
3 unnecessary however if the District can show “a history and continuing practice of  
4 program expansion responsive to the interest and abilities of ‘female athletes.’ ” *Id.*  
5 at 857 (citing 44 Fed.Reg. at 71,418). The District can alternatively satisfy Title IX  
6 if it proves the interests and abilities of female students have been fully and  
7 effectively accommodated. *Id.* at 858.

8 Plaintiffs’ SAC fails to allege that Defendants have failed to satisfy the first  
9 prong stated above. Plaintiffs’ SAC does not allege any facts regarding the  
10 proportionality of participation opportunities for male and female students. Plaintiff  
11 offers only conclusory allegations that the District’s “policies and practices cause  
12 Plaintiffs to have materially fewer athletic opportunities than they previously  
13 enjoyed because they no longer can compete in fair, exclusively female  
14 competition.” SAC ¶ 347. Plaintiffs further allege that biological males have  
15 “displac[ed] biological females and reduc[ed] their overall performance and  
16 participation rates.” SAC ¶ 360. Plaintiffs have not alleged the extent to which the  
17 inclusion of transgender athletes on teams aligning with their gender identity has  
18 impacted the substantial proportionality between the number of boys’ and girls’  
19 athletic opportunities.

20 To the extent Plaintiffs’ rely on M.L.’s and A.H.’s athletic participation, each  
21 is insufficient to establish a cause of action for effective accommodation pursuant to  
22 Title IX. Plaintiffs conflate the impacts of each athlete’s participation on the final  
23 standings of competitions with the number of athletic opportunities provided by the  
24 District to female athletes. Plaintiffs allege no facts related to how M.L. has  
25 impacted the proportionality of the number of athletic opportunities offered to  
26 female athletes. As to A.H., it is clear that another athlete competing for another  
27 school in another school district can have no impact on the proportionality of  
28 athletic opportunities offered to District students.

1 Similar to Plaintiffs’ First Amended Complaint, Plaintiffs SAC fails to  
2 establish that M.L.’s participation on the track & field and cross-country teams have  
3 affected the substantial proportionality of participation opportunities available for  
4 female athletes at King High School on an institutional basis. Plaintiff therefore has  
5 failed to state their Fifth Claim for Relief.

6 **2. Plaintiffs Fail to State a Claim for Title IX: Equal Treatment**  
7 **Violation**

8 “Title IX requires ‘equal treatment,’ which has been interpreted by the OCR  
9 to require ‘equivalence in the availability, quality and kinds of other athletic benefits  
10 and opportunities provided male and female athletes.’ ” *Ollier*, 858 F. Supp. 2d at  
11 1110 (quoting Policy Interpretation 44 Fed. Reg. at 71,417-18). “Compliance in the  
12 area of equal treatment and benefits is assessed based on an overall comparison of  
13 the male and female athletic programs, including an analysis of recruitment benefits,  
14 provision of equipment and supplies, scheduling of games and practices, availability  
15 of training facilities, opportunity to receive coaching, provision of locker rooms and  
16 other facilities and services, and publicity.” *Id.* (citing 34 C.F.R. § 106.41(c)).

17 Plaintiffs’ SAC lacks any allegations to establish unequal treatment based on  
18 an overall comparison of the male and female athletic programs. Plaintiffs  
19 incorrectly allege that AB 1266 creates a biological boys’ team and an integrated  
20 team, a misrepresentation of AB 1266. AB 1266 expressly requires that pupils be  
21 permitted to participate in sex-segregated athletic teams and competitions consistent  
22 with their gender identity. Cal. Educ. Code § 221.5(f). Both the girls and boys  
23 teams are thus subject to the same requirement that students be allowed to  
24 participate on the team consistent with their gender identity. Accordingly, Plaintiffs  
25 cannot establish any difference in the treatment to the boys’ and girls’ cross-country  
26 teams.

27 To the extent Plaintiffs allege the allowance of M.L. to compete in cross  
28 country and track & field constitute unequal treatment, the statistics alleged by

1 Plaintiff undermine the claim. Plaintiff alleges that M.L.'s cross-country time was  
2 19:41. SAC ¶ 115. Plaintiffs also allege that M.L.'s times were often, but not  
3 always, sufficient to warrant placement in the Top 7. SAC ¶ 378. T.S. ran a 20:42  
4 (SAC ¶ 116) while the fastest female on the team ran an 18:07. SAC ¶ 344. The  
5 boys' Top 7 team times range from 15:29 to 17:08. Id. M.L.'s times clearly fall  
6 within the times typical of cisgender girls, and thus Plaintiffs have not been deprived  
7 of competitive opportunities that reflect their abilities.

8 Plaintiffs' Sixth Claim for Relief therefore fails to state a claim upon which  
9 relief may be granted.

#### 10 IV. CONCLUSION

11 For all of the foregoing reasons, Defendant respectfully requests that the  
12 Court grant this Motion to Dismiss and Strike Plaintiffs' Second Amended  
13 Complaint.

14  
15 DATED: November 26, 2025

FAGEN FRIEDMAN & FULFROST, LLP

16  
17  
18 By:



Milton E. Foster III

Nathaniel B. Rosilez

Attorneys for RIVERSIDE UNIFIED SCHOOL  
DISTRICT, AMANDA CHANN, and LEANN  
IACUONE

19  
20  
21  
22 190-115/9124889.1

**CERTIFICATE OF COMPLIANCE**

The undersigned, counsel of record for Defendants Riverside Unified School District, Leann Iacuone, and Amanda Chann, certifies that this brief contains 5.162 words, which complies with the word limit of L.R. 11-6.1.

DATED: November 26, 2025

By:



Milton E. Foster III

Nathaniel B. Rosilez

Attorneys for RIVERSIDE UNIFIED SCHOOL  
DISTRICT, AMANDA CHANN, and LEANN  
IACUONE

**PROOF OF SERVICE**

**T.S. and K.S. v. Riverside Unified School District, et al.  
Case No. 5:24-cv-02480-SSS (SPx)**

**STATE OF CALIFORNIA, COUNTY OF RIVERSIDE**

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Riverside, State of California. My business address is 4160 Temescal Canyon Road, Suite 610, Corona, CA 92883.

On November 26, 2025, I served true copies of the following document(s) described as **DEFENDANTS RIVERSIDE UNIFIED SCHOOL DISTRICT, LEANN IACUONE, AND AMANDA CHANN'S MOTION TO DISMISS AND STRIKE SECOND AMENDED COMPLAINT FOR FAILURE TO STATE A CLAIM** on the interested parties in this action as follows:

**SEE ATTACHED SERVICE LIST**

☒ **BY E-MAIL OR ELECTRONIC TRANSMISSION:** I caused a copy of the document(s) to be sent from e-mail address cfigueroa@f3law.com to the persons at the e-mail addresses listed in the Service List. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on November 26, 2025, at Corona, California.



Christian Figueroa



**SERVICE LIST**  
**T.S. and K.S. v. Riverside Unified School District, et al.**  
**Case No. 5:24-cv-02480-SSS (SPx)**

Robert Tyler  
Julianne Fleischer  
ADVOCATES FOR FAITH & FREEDOM  
25026 Las Brisas Road  
Murrieta, CA 92562  
Telephone: (951) 600-2733  
[btyler@faith-freedom.com](mailto:btyler@faith-freedom.com)  
[jfleischer@faith-freedom.com](mailto:jfleischer@faith-freedom.com)

Attorneys for Plaintiffs T.S. and K.S.

Rob Bonta  
Darrell W. Spence  
Stacey L. Leask  
Katherine J. Grainger  
Truman S. Braslaw  
OFFICE OF THE ATTORNEY GENERAL  
455 Golden Gate Ave., Ste. 11000  
San Francisco, CA 94102  
Telephone: (415) 510-3524  
Facsimile: (415) 703-5480  
[Stacev.leask@doj.ca.gov](mailto:Stacev.leask@doj.ca.gov)

Attorneys for Defendants, State  
Superintendent of Public Instruction  
Tony Thurmond and Attorney  
General Rob Bonta